

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
RICHARD W. SETTIPANE, II,)	
<i>Plaintiff,</i>)	
)	
v.)	CIVIL ACTION NO. 04-10188-REK
)	
THE UNITED STATES)	
OF AMERICA,)	
<i>Defendant.</i>)	
_____)	

JOINT STATEMENT UNDER LOCAL RULE 16.1

The parties hereby submit this joint statement under Local Rule 16.1 and in accordance with the Notice of Scheduling Conference dated June 16, 2004.

A. Proposed Scheduling Conference Agenda

1. Schedule hearing on the merits of plaintiff's Complaint for Judicial Review of Jeopardy Assessment pursuant to 26 U.S.C. § 7429, if necessary.

B. Discovery Plan

1. The parties submit that the nature of this matter obviates the need for discovery. The defendant bears the burden of proof as to the reasonableness of the jeopardy assessment. *See* 26 U.S.C. § 7429(g)(1). On or about February 13, 2004, plaintiff filed with the Court Plaintiff's Memorandum in Support of His Complaint for Judicial Review of Jeopardy Assessment pursuant to 26 U.S.C. § 7429. Defendant filed its Answer on or about February 12, 2004, but defendant has not otherwise submitted any memorandum of law or evidence in response to the Complaint.

C. Proposed Schedule for Filing Motions

1. Given the nature of this proceeding, the parties submit that the filing of dispositive motions is obviated by the provisions of 26 U.S.C. § 7429(b).

D. Final Pretrial Conference

To be set by the Court, if necessary.

E. Certifications of Counsel

The undersigned attorneys certify that they have discussed the topics set forth in Local Rule 16.1(D)(3) with their clients. The originals of the signed certifications will be filed with the Court at the scheduling conference.

F. Other Matters

1. The parties have conferred with respect to settlement as required by Local Rule 16.1(C).

2. The plaintiff does not consent to trial by magistrate judge.

3. The plaintiff is amenable to mediation of this matter through the ADR program sponsored by the Federal District Court. The United States does not believe that mediation is appropriate for this matter.

4. The United States requests the opportunity to file a pretrial memorandum.

5. The parties are not aware of any other agenda items which must be discussed at the Rule 16.1 conference other than those described above.

Respectfully submitted,

RICHARD W. SETTIPANE, II,

By his attorneys,

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